

§ 21.5732 Time limits.

(a) *Completion of claim.* VA will consider a claim to be abandoned when VA requests evidence in connection with the claim, and the claimant does not furnish the evidence within one year after the date of the request. After the expiration of one year, VA will not take further action unless a new claim is received.

(Authority: 10 U.S.C. 2141)

(b) *New claim.* When a claim has been abandoned, VA will consider any subsequent communication which meets at least the requirements of an informal claim to be a new claim. VA will consider the date of receipt of the subsequent communication to be the date of the new claim.

(Authority: 10 U.S.C. 2141)

(c) *Failure to furnish form or notice of time limit.* (1) VA's failure to furnish any form of information concerning the right to file a claim or to furnish notice of the time limit for the filing of a claim will not extend the periods allowed for these actions.

(2) Time limits within which claimants or beneficiaries are required to act to perfect a claim or challenge an adverse VA decision may be extended for good cause shown. When an extension is requested after expiration of a time limit, the action required of the claimant or beneficiary must be taken concurrently with or prior to the filing of a request for extension of the time limit, and good cause must be shown as to why the required action could not have been taken during the original time period and could not have been taken sooner that it was. Denials of time limit extensions are separately appealable issues.

(Authority: 38 U.S.C. 5101, 5113)

[51 FR 27026, July 29, 1986, as amended at 56 FR 25046, June 3, 1991]

ELIGIBILITY AND ENTITLEMENT

§ 21.5740 Eligibility.

(a) *Establishing eligibility.* To establish eligibility to educational assistance under 10 U.S.C. Chapter 107 an individual must—

(1) Enlist or reenlist for service on active duty as a member of the Army, Navy, Air Force or Marine Corps after September 30, 1980 and before October 1, 1981 specifically for benefits under the provisions of 10 U.S.C. 2141 through 2149, Pub. L. 96-342,

(2) Have graduated from a secondary school,

(3) Meet other requirements as the Secretary of Defense may consider appropriate for the purpose of this chapter and the needs of the Armed Forces,

(4) Meet the service requirements stated in paragraph (b) of this section, and

(5) If a veteran, have been discharged under honorable conditions.

(Authority: 10 U.S.C. 2142(b), 38 U.S.C. 5303A)

(b) *Service Requirements.* (1) The individual must complete 24 continuous months of active duty of the enlistment or reenlistment described in paragraph (a)(1) of this section; or

(2) If the enlistment described in paragraph (a) of this section is the individual's initial enlistment for service on active duty, the individual must—

(i) Complete 24 continuous months of active duty, or

(ii) Be discharged or released from active duty—

(A) Under 10 U.S.C. 1173 (hardship discharge), or

(B) Under 10 U.S.C. 1171 (early-out discharge), or

(C) For a disability incurred in or aggravated in line of duty; or

(iii) Be found by the VA to have a service-connected disability which gives the individual basic entitlement to disability compensation as described in § 3.4(b) of this title. Once the VA makes this finding, the individual's eligibility will continue notwithstanding that the disability becomes non-compensable.

(3) In computing time served for the purpose of this paragraph, VA will exclude any period during which the individual is not entitled to credit for service as specified in § 3.15 of this title. However, those periods will not interrupt the individual's continuity of service.

(Authority: 10 U.S.C. 2142; 38 U.S.C. 5303A)

[45 FR 31, Jan. 2, 1980, as amended at 54 FR 34984, Aug. 23, 1989]